

Qualification and unrelated income; religious and educational broadcasting. An organization was formed for the purpose of advancing education and religion. In furtherance of this purpose it broadcasts religious and educational programs for all but an insubstantial amount of its broadcast time from a television station it owns and operates under a commercial broadcasting license. The organization may qualify for exemption under section 501(c)(3) of the Code even though its remaining broadcast time is devoted to other types of programs that are commercially sponsored; however, these programs constitute unrelated trade or business under section 513. Rev. Rul. 68-563 amplified.

Advice has been requested whether the nonprofit organization described below, which otherwise qualifies for exemption from federal income tax under section 501(c)(3) of the Internal Revenue Code of 1954, is operated exclusively for charitable purposes.

The organization was formed for the purpose of advancing religion and education. In furtherance of this purpose, it broadcasts religious and educational programs from a television station that it owns and operates. The programs are selected on the basis of religious and educational merit rather than commercial viability. The selections are made by a membership board that is representative of the community at large.

The station holds a commercial broadcasting license issued by the Federal Communications Commission. All but an insubstantial amount of its total air time is devoted to religious and educational programming, which is supported by contributions from the general public. The remaining air time is devoted to programs that are not religious or educational and that are commercially sponsored. The income derived from this commercial activity is devoted to the accomplishment of the organization's exempt purpose.

Section 501(c)(3) of the Code provides for the exemption from federal income tax of organizations organized and operated exclusively for charitable purposes.

Section 1.501(c)(3)-1(d)(2) of the Income Tax Regulations provides that the term 'charitable' as used in section 501(c)(3) of the Code includes advancement of religion and advancement of education.

Section 1.501(c)(3)-1(d)(3) of the regulations provides that the term 'educational,' as used in section 501(c)(3) of the Code, relates to the instruction of the public on subjects useful to the individual and beneficial to the community. An example of an educational organization described in the regulations is one whose activities include public discussions, forums, lectures,

panels, and other similar programs. Such programs may be on radio or television.

Rev. Rul. 66-220, 1966-2 C.B. 209, holds that a nonprofit corporation or station presenting educational, cultural and operated exclusively for educational purposes to operate a noncommercial educational broadcasting program, and public interest programs is exempt from federal income tax under section 501(c)(3) of the Code.

Rev. Rul. 68-563, 1968-2 C.B. 212, holds that a nonprofit religious broadcasting station that does not sell commercial or advertising time is exempt under section 501(c)(3) of the Code even though it operates on a commercial license.

An organization devoting all but an insubstantial part of its broadcast time to religious and educational programming, and otherwise operating in the manner described above, is engaging in activities that accomplish its exempt purposes. Accordingly, the organization is operated exclusively for religious and educational purposes and is exempt from federal income tax under section 501(c)(3) of the Code.

Section 511 of the Code imposes a tax on the unrelated business taxable income of organizations otherwise exempt from tax under section 501(c)(3), with certain exceptions not pertinent here.

Section 513 of the Code defines the term 'unrelated trade or business' as any trade or business the conduct of which is not substantially related (aside from the need of an organization for income or funds or the use it makes of the profits derived) to the exercise or performance by an organization of its exempt functions.

The presentation of commercial programs and the sale of advertising for air time in connection therewith are not substantially related to the purposes forming the basis for exemption of the organization. Accordingly, this activity constitutes unrelated trade or business within the meaning of section 513 of the Code, and the income that the organization receives, less allowable deductions as provided in section 512, from such activity is subject to the tax imposed by section 511.

Even though an organization considers itself within the scope of this Revenue Ruling, it must file an application on Form 1023, Application for Recognition of Exemption, in order to be recognized by the Service as exempt under section 501(c)(3) of the Code. See sections 1.501(a)-1 and 1.508-1(a) of the regulations. In accordance with the instructions to Form 1023, the application should be filed with the District Director of Internal Revenue for the key district indicated therein.

Rev. Rul. 68-563 is amplified.